IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 2339 of 2007(C)

PETITIONER:

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1. M.B.VASANTHAKUMARI, CHIEF ACCOUNTANT,
F.A.C.T EMPLOYEES CO-OPERATIVE CREDIT SOCIETY
LTD NO.E 663, UDYOGAMANDAL P.O., ERNAKULAM.

2. ANNIE.C.ANAND, ASSISTANT SECRETARY,
F.A.C. EMPLOYEES CO-OPERATIVE CREDIT SOCIETY
LTD NO.E 663, UDYOGAMANDAL P.O., ERNAKULAM.

BY ADV. SRI.P.P.JACOB

RESPONDENTS:

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1. F.A.C.T. EMPLOYEES CO-OPERATIVE
CREDIT SOCIETY LTD NO.E 663, UDYOGAMANDAL P.O.,
ERNAKULAM, REP.BY ITS SECRETARY.

2. ASSISTANT REGISRAR OF CO-OPERATIVE
SOCIEIES (G), NORTH PARAVUR.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007,ALONG WITH W.P.(C) 16167/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) Nos.2339 &16167 of 2007

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Dated this the 1st day of June, 2007

JUDGMENT

These writ petitions are filed by the same petitioners. Petitioners were granted promotion. They are presently aggrieved by Exts.P6 and P7 orders in W.P.(C) 16167 of 2007, as per which according to them the salary of the petitioners is reduced and decision is taken to recover major portion of the salary alleging excess amount. Ext.P7 is the details of the order. W.P.(C) 2339 of 2007 is filed for a direction to pay increment as per Exts.P5 and P6. Exts.P5 and P6 are communications dated 31.10.2006 of the Assistant Registrar of Co-operative Societies(G).

2. I heard learned counsel for the petitioners Sri.P.P.Jacob and Sri.T.R.Harikumar, counsel appearing for the respondents. According to Sri. T.R.Harikumar Exts.P6 and P7 in W.P.(C) 16167 of 2007 was taken pursuant to the decision of the Joint Registrar. He would further say that before Exts.P6 and P7 orders were issued, the petitioners were given opportunity of hearing. This is countered by the learned counsel

appearing for the petitioners by submitting that no opportunity of hearing was given before Exts.P6 and P7 are issued. The decision of the Joint Registrar pursuant to which the decisions Exts.P6 and P7 in W.P.(C) 16167 of 2007 was taken has been handed over to counsel for the petitioners. It is not in dispute that the petitioners have remedy under Section 69(2) (d) of the Kerala Co-operative Societies Act.

3. In such circumstances, I feel that the petitioners are to be relegated to the pursuit of the said remedy. Leaving open the contentions of the petitioners, the writ petitions are disposed of relegating the petitioners to move the authority under Section 69(2)(d) of the Co-operative Societies Act.

4. Learned counsel for the petitioners submits that the petitioners are in receipt of the salary now for a long period of time, which is sought to be reduced now. It is however submitted by learned counsel for the respondents that the reduction is perfectly justified.

I feel that in the interests of justice, while relegating the petitioners to the alternate remedy, the following further direction should be issued. Counsel for the petitioners submits that the

petitioners will approach the Arbitration Court within ten days from today. In view of this submission, it is ordered that the salary of the petitioners shall be kept pending so that an appropriate decision in accordance with law can be taken by the Arbitration Court when considering the interim application by the petitioners is moved in the proceedings under Section 69(2)(d) of the Act. I make it clear that I have not pronounced upon any contention of the petitioners.

(K.M. JOSEPH, JUDGE)

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